BIAS:

The Sinkhole of Sex Assault and Domestic Violence Cases



UPC Fall Conference September 25, 2020

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NOTE: Gender Population Considerations in the Curriculum Content

Predominantly through this curriculum, victims are referred to as female and perpetrators are referred to as male. This gender reference to female victims is based on the historical and statistical likelihood that cases will most likely include a female victim. However, this gender reference is in no way intended to diminish the impact of a sex or domestic violence crime on male victims. The principles of trauma informed response are applicable to all gender populations: male, female, LGBTQ+etc., and we should provide equally sensitive and compassionate response to all victims.

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PURPOSE:

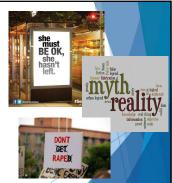
To identify areas where implicit bias may be misdirecting or undermining prosecution decisions

To get your self-awareness process started in how you look at these cases

Why do Rape/DV Myths Exist?

As a society:

- We are educated by TV/Movies/Media = often inaccurate
- People want to feel safe.
- ✓ We believe in justice.
- People don't want to believe there's a problem.



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My BIAS definition:

Gut instincts, intuitive beliefs or *identified patterns* based upon the input of inaccurate or incomplete information to the brain (+ or -)



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"The normal state of your mind is that you have intuitive feelings and opinions about almost everything that comes your way. You like or dislike people long before you know much about them; you trust or distrust strangers without knowing why."

~Nobel Laureate Daniel Khaneman



EXERCISE - Say CO read it, say it out		loud - don't just	
#1 Column	#2 Column	#3 Column	
WHITE	GREEN	PINK	
RED	PINK	BLUE	
BLUE	YELLOW	GREEN	
YELLOW	RED	WHITE	

EXERCISE - Again,	say COLOR of wor	rd out loud	
#1 Column	#2 Column	#3 Column	
WHITE	GREEN	PINK	
RED		BLUE	
BLUE		GREEN	
YELLOW	RED	WHITE	

"Family, personal experience, TV, movies, social media, cultural norms -all of these sources are updating our stereotypical understandings of various categories of people. They may be positive or negative."

~Jim Drennen, Adjunct Professor, School of Government

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We're training LEO, but what happens when it gets to us? What are our bias beliefs?



Stereotype of a Rape

A degenerate, sex-starved, knifewielding stranger leaps from the shadows to attack an unsuspecting young woman, who resists vigorously, is seriously injured and immediately reports to police.

Know your bias - fight the stereotypes - seek the truth - be objective and fair

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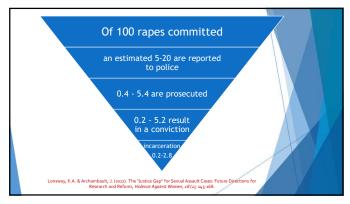
Stereotype of a Domestic Violence Victim

A woman with visible injuries who lives in poverty, is desperate for male attention, neglects her children and can't hold a job or follow through on simple steps to improve her situation.



Our Education: Movies - TV - Books How does a victim in a traumatic event act? Movies - TV - Books DRAMA MUSTERIA SOBBING BRUISES AND BLOOD CLINGING HIGH EMOTIONS LOW POWER

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MYTH: Victims invite perps to rape them. Q. How sexy or scantily clad would someone be dressed before you'd be compelled to rape them? Q. What BAC would someone be at before you'd succumb and have to rape them? FACT: Opportunity, not provocation is the most common precipitator of rape.

CHANEL MILLER

- Sex assault survivor of Brock Turner

"He admitted to wanting to hook up with someone. I was the wounded antelope of the herd, completely alone and vulnerable, physically unable to fend for myself, and he chose me. Sometimes I think, if I hadn't gone, then this never would've happened. But then I realized, it would have happened, just to somebody else."

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Victim Selection

- ► Victims can be anyone, but most often those who are **perceived** as:
 - **▶** Vulnerable
 - ▶Accessible
 - ► Lacking Credibility

Victim Blaming Factors > Vulnerability Factors

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Perceived / Created Vulnerability

- ▶Alcohol / drug use or abuse
- ►Age (young or old)
- **▶**Isolation
- ▶Cognitive, physical, mental health disability
- ▶Position or status (economic, cultural, etc.)
- ▶Immigration status
- ▶Sex industry victims/workers

MYTH: Most rape allegations are false.

Studies:

1977 Study - 116 cases. Only 6% false reports. 2005 Study - 2,643 cases. Only 2.5% false reports. 2007 Study - 2,000 cases. Only 7.1% false reports. 2010 Study - 136 cases. Only 5.9% false reports. 2014 LAPD Study - Only 4.5% false reports.

FACT: False reports are low. Estimated average of only 2-8% of reports are false.

** It is more likely that an actual rape goes unreported.

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BIAS: 'It's not rape, it's regret'

Incomplete or inaccurate information input:

- ▶ Overheard friends /family talking
- ▶ Someone accused someone you love or care about
- ▶ Relied on opinion of others and not empirical data
- ▶ Belief that recantation, "I lied" = false report
- ▶ Feel justified in imputing motive to victim, i.e. immigration, religion
- ▶ Watched crime shows involving false reports
- ▶ Belief that if no word or conduct to reject advance, then they wanted it

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TIP: Flip a statement/belief to challenge bias.

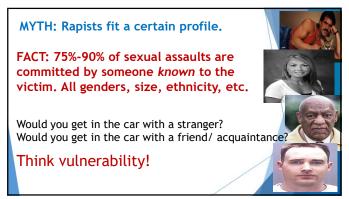
Women cry rape when they regret sex OR Men cry rape when they regret sex

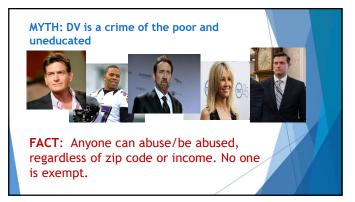
A woman's GO-TO when they regret sex is NOT to make a criminal accusation, any more than it is a man's. No one makes that statement about men.

Men can't be raped. They always want sex. He's lucky!

Men don't 'always' want sex. Women don't 'always' want sex. As humans we make choices about our sexual activity and partner(s). Both men and women may be victims of sex crimes.

MYTH: If the DV vi	ictim doesn't leave, it pad			
Obstacles to leaving inc	lude:			
Lethality increases 75%	Culture/beliefs = loyalty to partner			
Abuser is unstoppable	If quit alcohol/drugs = abuse stops			
Financial dependence	Abuser won't obey court, police			
Child alliances	Abuser gets parent time			
FACT: Leaving is not the goal - SURVIVING is the goal. Helping a victim of domestic violence is not a one-size- fits-all process and will take time.				





lyth: If a real rape,	you fight and/or yell	
EXECUTIVE CIRCUITRY - CORTEX	DEFENSE CIRCUITRY - SUBCORTEX	
Dominates when no trauma	Dominates when in trauma	
Chooses focus of attention	Involuntary focus on danger/threat	
Imagine the future / hope	Focus on sensory and emotional details	12
Overcome unhealthy habits/impulses	Triggers self-protection habits	Mary Control
Regulates emotions / thoughts	Triggers survival reflexes	
Weighs alternatives, makes thoughtful decisions	Cannot choose what to think, remember or experience in trauma	Photo credit; www.jimhopper.com
Encodes memories in detailed and chronological way	Encodes memories most important to survival, resulting in gaps in details and time	

Dr. Jim Hopper - Psychologist, Assoc Professor Harvard Medical School

"The defense circuitry is always on, scanning for danger. When an attack is detected or stress is high, it can rapidly dominate the brain, including by impairing the rational prefrontal cortex and by controlling attention, shifting behavior to reflexes and habits, and determining what gets into memory.

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Dr. Jim Hopper (cont'd)

For example, research on animals and humans has shown that stress shifts the brain to dependence on behaviors of the habit circuitry. Again, this is something the military totally understands, and why combat training involves repeatedly loading, cleaning, and firing weapons and repeatedly practicing combat tactics, so those behaviors get burned into the habit circuitry."

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Dr. J	im	Hopp	er (c	ont'd

"Once we've absorbed these key facts about the defense circuitry, we won't be surprised when an intelligent woman says it never occurred to her, while being raped, to yell for her roommate. We'll know it's likely that her prefrontal cortex was impaired. We won't be surprised if a Navy recruit, while being held down and sodomized in a "hazing incident," responded just how he always did when his stepfather beat him up. We'll know that his brain's defense circuitry is perfectly capable of cueing up, in a flash, those old habits of submission."

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Dr. Jim Hopper (cont'd)

"Nor will we misjudge a woman who, while held down on a bed in a state of confused terror, fell back on polite habits she has long used to successfully resist unwanted advances from men who aren't rapists. When she recalls repeatedly saying, "My boyfriend will find out," until finally collapsing in defeat, we won't be puzzled by the apparent disconnect between the words she was speaking and the shock and fear she was feeling. We won't assume from her polite words that, "actually," she had "mixed feelings" at the time, and only later "called it rape" because she was afraid her boyfriend would find out."

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FACT: How a victim responds to a sexual assault will depend more on their arsenal of self-protection habits and survival reflexes, than their choices.

What's in your arsenal?

A quick word on Neuroscience vs. Statute 76-5-406(a)

"(a) the victim expresses lack of consent through words or conduct

Note: NOT an exhaustive list.

Lack of words or conduct rejecting sexual activity

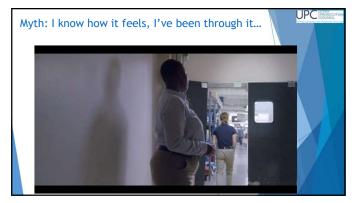


Consent

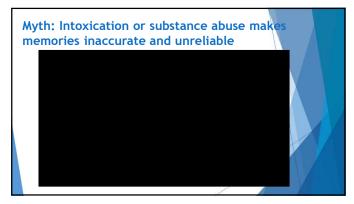
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Myth: Intoxication or substance abuse makes memories inaccurate and unreliable

FACT: "Just because someone's drunk and their memories have a lot of holes, doesn't mean that what memories are there are not very important and can be very accurate."

Jim Hopper PH.D. On Sexual Assault, Intoxication & Memory https://www.youtube.com/watch?v=K9galTxFsjs

Bryan Stevenson Author of "Just Mercy"

"You can't understand most of the important things from a distance, Bryan. You have to get close."

~Grandmother of Bryan

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- 1. Recognize your bias
- 2. Challenge your bias
- 3. Educate yourself and disprove your bias
- 4. Usually it's a process, so work at it!



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MARLESSE D. JONES

SA/DV Resource Prosecutor Utah Prosecution Council

marlessejones@agutah.gov 801-725-4748

